

Appln No. 10/726,177  
Amdt date July 9, 2007  
Reply to Office action of March 8, 2007

### REMARKS/ARGUMENTS

Claims 1-16 and 18-25 were previously pending in the application. Claims 8-10, 16, 18-20 and 24 have been indicated to be allowable if rewritten in independent form. Claim 16 has been canceled. New claim 26 has been presented. Claims 1-15 and 18-26 are now pending in the application.

Applicants' attorney, Saeid Mirsafian, conducted a telephone interview with Examiner Annette Reimers on June 21, 2007. Applicants' attorney and the Examiner discussed patentability of the claims over the applied references. In particular, Applicants' attorney proposed to amend claim 1 to recite "wherein the closure element is movable from a first position spaced from the abutment wherein a lower side of the closure element contacts the rod to a second position wherein the lower side of the closure element directly contacts both the abutment and the rod." The Examiner indicated that Applicants' amendment seems to overcome the rejections in the Office action, but is subject to further consideration and search. The Examiner also indicated that Applicants can schedule another telephone interview after filing a response to the Office action to discuss the claims presented in the Office action. Applicants would like to thank the Examiner for conducting the interview.

The drawings have been objected to for FIG. 7 not being labeled "Prior Art." Applicants have amended FIG. 7 to now include the label "Prior Art." Applicants request withdrawal of this objection.

Claims 9 and 10 have been objected to for certain informalities. Claims 9 and 10 have been amended to correct the informalities. Applicants request withdrawal of this objection.

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**Rejection under 35 U.S.C. 102(b) over Jackson I**

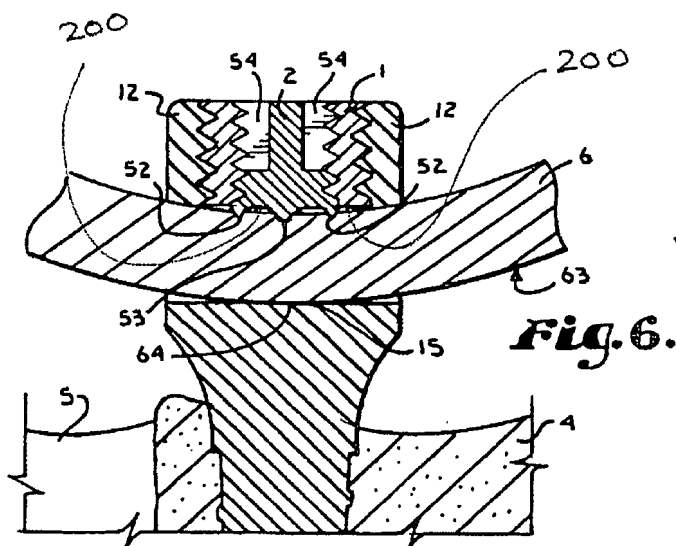
Claims 1-3, 5-7, 11-13, 21-23 and 25 have been rejected under 35 U.S.C. 102(b) over Jackson I (U.S. Patent No. 6,224,598). Claim 1 recites an abutment to limit a tilting of the closure element about the rod at the time of final tightening of the closure element in the holding element. Furthermore, Applicants have amended claim 1 to recite wherein the closure element is movable from a first position spaced from the abutment wherein a lower side of the closure element contacts the rod to a second position wherein the lower side of the closure element directly contacts both the abutment and the rod. In contrast, Jackson I does not disclose or suggest the noted limitations of claim 1.

The Examiner states that FIGS. 1 and 6 of Jackson I shows an abutment as "an inward projecting surface on the inside of the free legs of the holding element." (Office action at page 4). Applicants note that the only possible inward projecting surface that is shown on the free legs of Jackson is a surface of the inner thread 16. Referring to FIG. 6 of Jackson I, when the closure 1 is tightened, the closure 1 contacts the rod 6 and presses on the rod 6 to secure the rod 6 in the yoke 13. However, regardless of which surface of the inner thread 16 is considered an abutment, Applicants submit that a) the closure 1 of Jackson I is not movable from a first position spaced from the abutment wherein a lower side of the closure 1 contacts the rod to a second position wherein the lower side of the closure 1 directly contacts both the abutment and the rod 6, and b) such an abutment as the Examiner asserts cannot limit a tilting of the closure 1 about the rod at the time of final tightening of the closure 1 in the holding element.

FIG. 6 of Jackson I is reproduced below and modified to include a reference number 200 for a lower side of the closure 1. In FIG. 6 of Jackson I, the lower side 200 of the closure 1 is shown in contact with the rod 6 when the rod is secured. However, the lower side 200 of the closure 1 of Jackson is not in contact with any surface of the inner threads 16. In Fig. 6 of Jackson, the last surface of the inner thread 16 is shown with reference 202. As evident from the figure, when the closure 1 is tightened to secure the rod 6, the lower side 200 of the closure 1 is not in contact with both the rod 6 and the surface 202. Rather, the lower side 200 of the closure

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1 is only in contact with the rod 6. Even if the closure 1 of Jackson I is positioned higher in the yoke 13 than the position shown in FIG. 6 such that the lower side 200 contacts any one of the surfaces of the inner thread 16, then the lower side 200 would no longer contact the rod 6. Therefore, in contrast to claim 1, the closure 1 of Jackson I is not movable from a first position spaced from the abutment wherein a lower side 200 of the closure 1 contacts the rod 6 to a second position wherein the lower side 200 of the closure 1 directly contacts both the abutment and the rod 6.



Applicants also submit that the part to which the Examiner refers as an abutment cannot be an abutment as claimed. If any thread surface of the inner thread of Jackson I is considered an abutment, such a part would cause tilting of the closure 1 as the closure 1 is tightened over the rod 6. As the closure 1 contacts the rod 6 while being tightened, the curved surface of the rod 6 can cause tilting of the closure 1 about the surface of the rod 6. Regardless of how tightly the closure 1 is secured over the rod 6, the tilting of the closure 1 cannot be limited, because Jackson I does not disclose any part or component which can limit such tilting. In contrast, claim 1 of the present application recites an abutment to limit a tilting of the closure element about the rod at the time of final tightening of the closure element in the holding element. Therefore, Jackson I

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does not disclose an abutment as claimed and does not have any part which can limit the tilting of the closure about the rod at the time of final tightening of the closure.

For the foregoing reasons, Applicants believe that claim 1 and dependent claims 2, 3, 5-7, 11, 12, and 21-23 are patentable over Jackson I.

The Office action indicates that claim 16 would be allowable if rewritten in independent form. Regarding the rejection of claim 13 over Jackson I, Applicants have canceled claim 16 and amended claim 13 to include the limitations of claim 16. Therefore, claims 13-15 and 25 are allowable.

**Rejection under 35 U.S.C. 102(b) over Lombardo**

Claims 1-3, 5, 11-15, 21-22 and 25 have been rejected under 35 U.S.C. 102(b) over Lombardo (U.S. Patent Publication 2001/0001119). Claim 1 recites an abutment to limit a tilting of the closure element about the rod at the time of final tightening of the closure element in the holding element. Furthermore, Applicants have amended claim 1 to recite wherein the closure element is movable from a first position spaced from the abutment wherein a lower side of the closure element contacts the rod to a second position wherein the lower side of the closure element directly contacts both the abutment and the rod. In contrast, Lombardo does not disclose or suggest the noted limitations of claim 1.

The Examiner states that FIGS. 1-3 of Lombardo show an abutment as "an inward projecting surface on the inside of the free legs of the holding element." (Office action at page 5). Applicants note that the only possible inward projecting surface that is shown in Lombardo is a surface of the inner thread 42. Referring to FIG. 1 of Lombardo, when the locking device 11 is tightened, the locking device 11 contacts the rod 8 and presses on the rod 8 to secure the rod 8 in the receiving channel 12. However, regardless of which surface of the inner thread 42 is considered an abutment, Applicants submit that a) the locking device 11 of Lombardo is not movable from a first position spaced from the abutment wherein a lower side of the locking device 11 contacts the rod 8 to a second position wherein the lower side of the locking device 11

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directly contacts both the abutment and the rod 8, and b) such an abutment as the Examiner asserts cannot limit a tilting of the locking device 11 about the rod 8 at the time of final tightening of the locking device 11 in the holding element.

FIG. 1 of Lombardo is reproduced below and modified to include reference numbers 300, 302, 304 and 306; which reference certain parts that are discussed herein. In FIG. 1 of Lombardo, a lower side 300 of the locking device 11 is in contact with the rod 8 when the rod 8 is secured in the channel 12. If the last surface 302 of the inner thread 42 of Lombardo is considered an abutment, then as shown in FIG. 1 of Lombardo, the lower side 300 of the locking device 11 does not contact both the rod 8 and the last surface 302 of the inner thread 42 in the second position of the locking device 11. If another surface 304 of the inner thread 42 is considered an abutment, then as shown in FIG. 1 of Lombardo, the lower side 300 of the locking device 11 does not contact both the rod 8 and the last surface 302 of the inner thread 42 in the second position of the locking device 11. Even if a surface 306 of the inner thread 42 of Lombardo just when the lower side 300 of the locking device 11 contacts the rod 8 is considered an abutment, then as shown in FIG. 1 of Lombardo, the locking device 11 is not spaced from the abutment in the first position wherein the lower side 300 of the locking device 11 contacts the rod 8. Therefore, Lombardo does not disclose that the locking device 11 is movable from a first position spaced from the abutment wherein a lower side 300 of the locking device 11 contacts the rod 8 to a second position wherein the lower side 300 of the locking device 11 directly contacts both the abutment and the rod 8.

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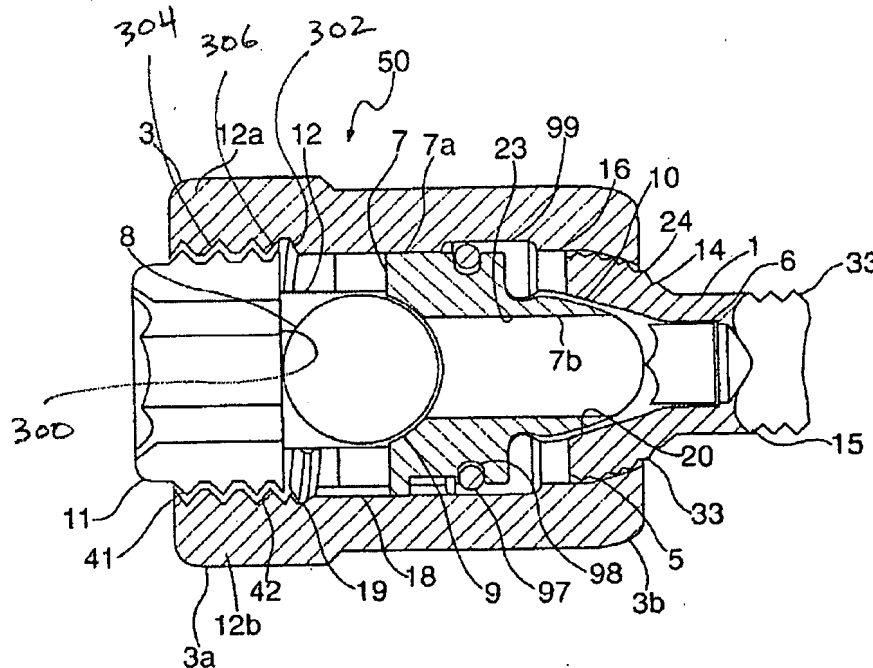


FIG. 1

Applicants also submit that the part to which the Examiner refers as an abutment cannot be an abutment as claimed. If any thread surface of the inner thread 42 of Lombardo is considered an abutment, such a part would cause tilting of the locking device 11 as the locking device 11 is tightened over the rod 8. As the lower side 300 of the locking device 11 contacts the rod 8 while the locking device 11 is being tightened, the curved surface of the rod 8 can cause tilting of the locking device 11 about the surface of the rod 8. Regardless of how tightly the locking device 11 is secured over the rod 8, the tilting of the locking device 11 cannot be limited, because Lombardo does not disclose any part or component which can limit such tilting. In contrast, claim 1 of the present application recites an abutment to limit a tilting of the closure element about the rod at the time of final tightening of the closure element in the holding element. Therefore, Lombardo does not disclose an abutment as claimed and does not have any part which can limit the tilting of the closure about the rod at the time of final tightening of the closure.

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For the foregoing reasons, Applicants believe that claim 1 and dependent claims 2, 3, 5, 11, 12, and 21-22 are patentable over Lombardo.

Regarding the rejection of claims 13-15 and 25, as discussed above, claim 16 has been cancelled and claim 13 has been amended to include the limitations of claim 16. Therefore, because claim 16 has been indicated to be allowable, claims 13-15 and 25 are now allowable.

**Rejection under 35 U.S.C. 102(e) over Jackson II**

Claims 1-3, 5, 11-15, and 21-22 and 25 have been rejected under 35 U.S.C. 102(e) over Jackson II (U.S. Patent No. 6,368,321). Applicants have amended claim 1 to recite wherein the closure element is movable from a first position spaced from the abutment wherein a lower side of the closure element contacts the rod to a second position wherein the lower side of the closure element directly contacts both the abutment and the rod. In contrast, Jackson I does not disclose or suggest the noted limitations of claim 1.

The Examiner states that FIGS. 1-4 of Jackson II show an abutment as "an inward projecting surface on the inside of the free legs of the holding element." (Office action at page 6). FIG. 1 of Jackson II is reproduced below and modified to include reference text A. Referring to FIG. 1 of Jackson II, Applicants note that the only possible inward projecting surface that is shown in Jackson II is surface which is labeled below with reference A. The closure 12 of Jackson II is threaded in the thread portions 39 and 40 to secure the rod 5 in channel 33. However, Applicants submit that the closure 12 is not movable from a first position spaced from the surface A wherein a lower side of the closure 12 contacts the rod 5 to a second position wherein the lower side of the closure 12 directly contacts both the surface A and the rod 5.

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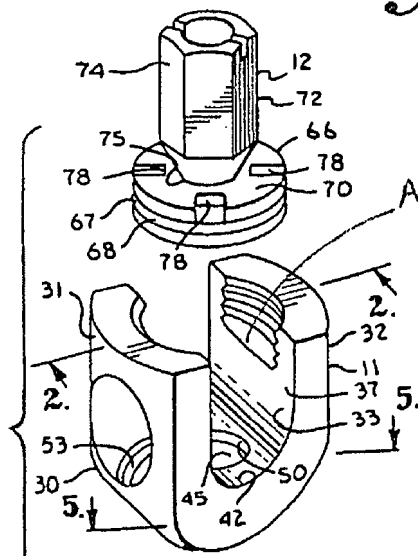
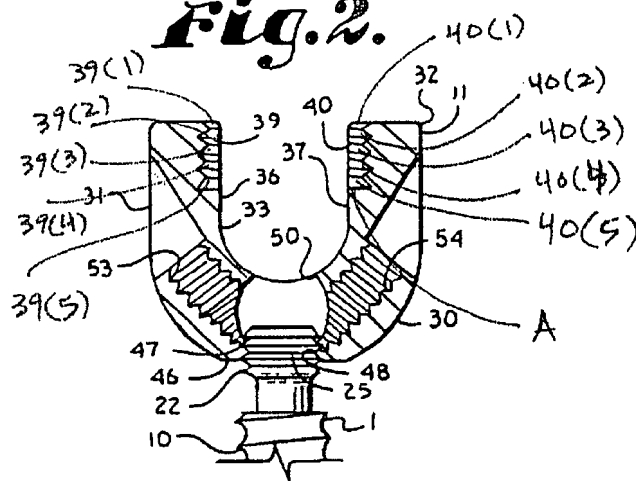
**Fig.1.****Fig.2.**

FIG. 2 of Jackson II is reproduced above and FIG. 4 of Jackson is reproduced below and modified to include reference numbers 39(1)-39(5) and 40(1)-40(5). In FIG. 2 of Jackson II, the threaded portions 39 and 40 are each shown to have a partial top thread 39(1) and 40(1), three full threads 39(2)-39(4) and 40(2) to 40(4), and a partial bottom thread 39(5) and 40(5). Referring to FIG. 4 of Jackson II, the rod 5 is shown to be secured in the channel 33 with the closure 12.



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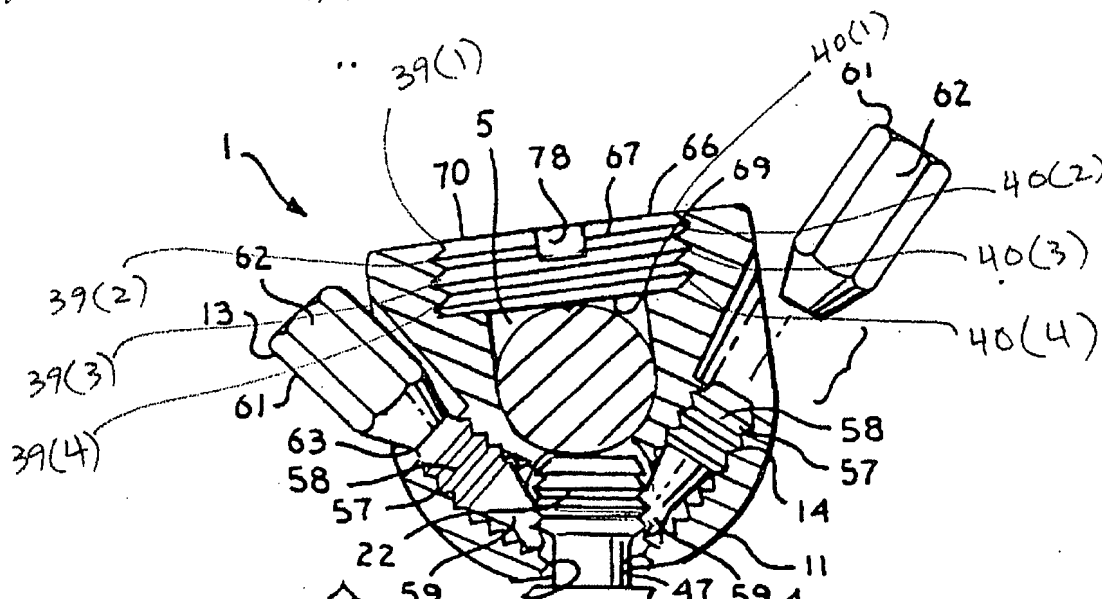
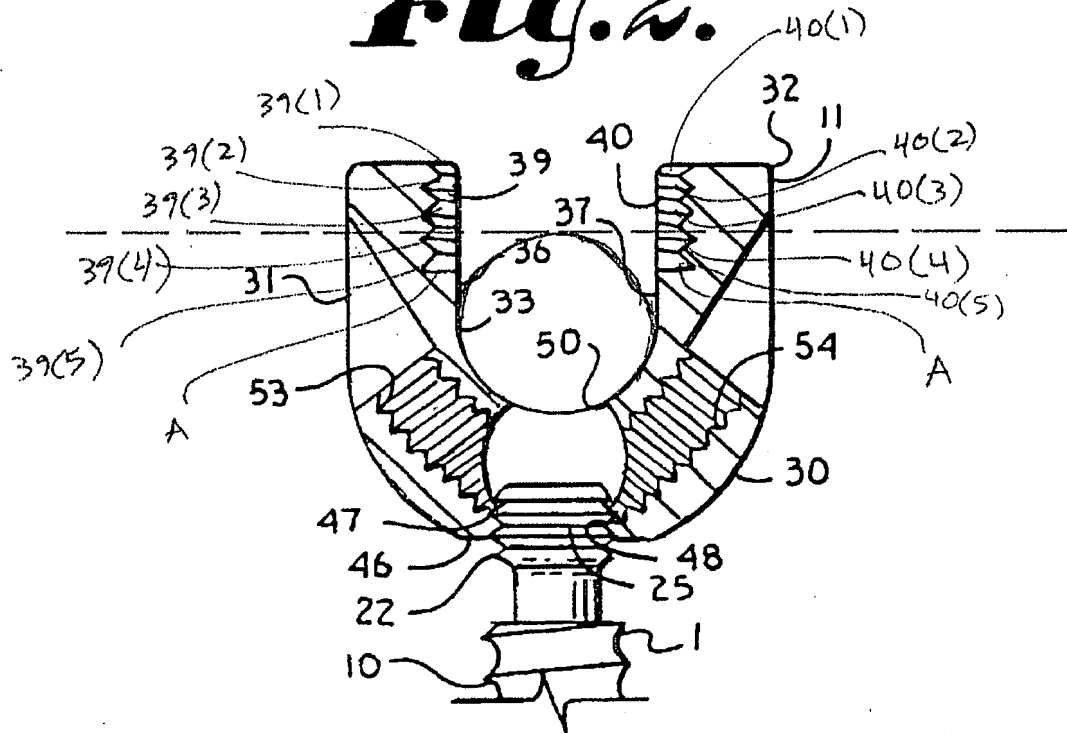


FIG. 4 of Jackson II (partial view)

The closure 12 is shown to be threaded through the threads 39(1)-39(4) and 40(1)-40(4) when the rod 5 is secured in the channel 33. Accordingly, based on the drawings of Jackson II, the closure 12 contacts the rod 5 to secure the rod 5 in the channel 33 before the bottom surface 69 of the closure 12 reaches the partial bottom threads 39(5) and 40(5). Applicants have additionally reproduced FIG. 2 of Jackson II below and have modified this figure to show the rod 5, a horizontal line (i.e. the dashed line shown) tangent to the top of the rod 5, surface A, and reference numbers 39(1)-39(5) and 40(1)-40(5) referring to the individual threads of threaded parts 39 and 40. As shown by the dashed horizontal line, the top of the rod 5 rests well above the surface A when the rod is in the channel 33.

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*Fig. 2.*



Accordingly, the closure 12 of Jackson II cannot contact the surface A. Therefore, Jackson II does not disclose or suggest wherein the closure element is movable from a first position spaced from the abutment wherein a lower side of the closure element contacts the rod to a second position wherein the lower side of the closure element directly contacts both the abutment and the rod., as recited in claim 1.

Furthermore, referring to FIGS. 1-5 and col. 6, lines 33-39 of Jackson II, "the closure 12 is tightened by rotation thereof through the closure driving head 73 until the driving head 73 breaks away from the body 66 at a preselected torque." Thus, Jackson II provides the breaking away of the driving head 73 from the closure 12 so as to prevent excessive torque on the closure 12 and the rod.

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Applicants believe that if the lower side 69 of the closure 12 were to contact the part to which the Examiner refers as abutment, i.e., surface A, the need for the breaking away of the driving head 73 to prevent excessive torque would be eliminated. In other words, if the closure 12 of Jackson II were to contact the part to which the Examiner refers as abutment, the closure 12 could no longer be tightened, and therefore, the amount of torque exerted on the closure 12 and the rod would remain constant. If the amount of torque remains constant, then there is no need in having the driving head 73 break away as described in Jackson II.

For the foregoing reasons, Applicants believe that claim 1 and dependent claims 2, 3, 5, 11, 12, and 21-22 are patentable over Jackson II.

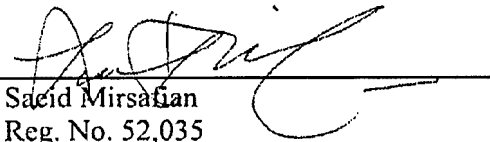
Regarding the rejection of claims 13-15 and 25, as discussed above, claim 16 has been cancelled and claim 13 has been amended to include the limitations of claim 16. Therefore, because claim 16 has been indicated to be allowable, claims 13-15 and 25 are now allowable.

Applicants have presented new claim 26, which recites a pressure element having an end facing the closure element for acting upon the head to fix an angular position of the shaft relative to the holding element, an abutment on the pressure element to limit a tilting of the closure element about the rod at the time of final tightening of the closure element in the holding element, and wherein the closure element is movable from a first position spaced from the abutment wherein a lower side of the closure element contacts the rod to a second position wherein the lower side of the closure element directly contacts both the abutment and the rod. Applicants believe that claim 26 is patentable over any one or a combination of Jackson I, Lombardo and Jackson II.

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Applicants believe that the claims are now in condition for allowance.

Respectfully submitted,  
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Annotated Sheet 1 of 1

4/4

PRIOR ART

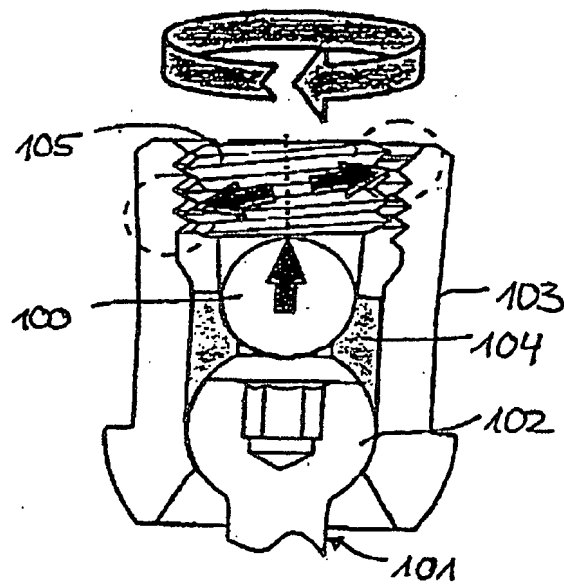


Fig. 7